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Attorneys for Defendant

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

BROADCOM CORPORATION

Plaintiff,

v.

QUALCOMM INCORPORATED,

Defendant.

Civil Action No. 05-3550 (MLC)

NOTICE OF MOTION

Return Date: June 19, 2006

TO: WILLIAM S. FEILER, ESQ.
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Attorneys for Plaintiff

PLEASE TAKE NOTICE that Defendant QUALCOMM Incorporated ("QUALCOMM") will move this Court at The Fisher Federal Building and United States Courthouse, 402 East State Street, Trenton, New Jersey, on June 19, 2006 at 9 a.m., before Magistrate Judge John J. Hughes, for entry of an Order, pursuant to Local Civil Rule 5.3(c), requiring the filing under seal the following documents related to QUALCOMM's Motion to Compel the Production of Documents by Telefonaktiebolaget LM Ericsson and Ericsson, Inc.:

- a) A document produced by Broadcom entitled "PROJECT STOCKHOLM – 27 October – 10am" and designated by Broadcom as "Confidential", bearing production number BCMBLA0868475 (Gonell Ex. 4);
- b) An email produced by Broadcom from Gail Chandler of Texas Instruments to, among others, Peter Olofsson of Ericsson and Bill Blanning of Broadcom and designated by Broadcom as "Confidential", bearing production numbers BCMBLA0467013-014 (Gonell Ex. 5); and
- c) Excerpts of Broadcom Corporation's Objections and Responses to QUALCOMM Incorporated's First Set of Interrogatories, dated February 14, 2006, and designated by Broadcom as "Highly Confidential" (Gonell Ex. 10).

PLEASE TAKE FURTHER NOTICE that in support of the motion, QUALCOMM relies on the Memorandum submitted with this notice of motion, and upon all pleadings and proceedings on file herein.

PLEASE TAKE FURTHER NOTICE that a proposed form of order granting QUALCOMM's motion is submitted with the motion.

Dated: May 26, 2006

McCARTER & ENGLISH, LLP

By: s/ William J. O'Shaughnessy
William J. O'Shaughnessy

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Attorneys for Defendant Qualcomm Incorporated

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

BROADCOM CORPORATION,

Plaintiff,

v.

QUALCOMM INCORPORATED,

Defendant.

Civil Action No. 05-3350 (MLC)

MEMORANDUM IN SUPPORT OF QUALCOMM INCORPORATED'S MOTION TO SEAL
MATERIALS PURSUANT TO LOCAL RULE 5.3

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Attorneys for Defendant

Plaintiff QUALCOMM Incorporated respectfully submits this memorandum in support of its motion to seal materials pursuant to L.Civ.R. 5.3(c).

This is an antitrust case requiring discovery of highly sensitive competitive information. The parties have produced confidential information in discovery, the public disclosure of which could affect legitimate business interests. To protect the confidentiality of this information, the parties entered into an Order Governing the Production and Exchange of Confidential Material, which the Court entered on March 13, 2006 (the "Protective Order"). The Protective Order allows the parties to designate information as "Confidential" (Order ¶ 3) or "Highly Confidential (id. ¶ 4), and provides that a party wishing to use material designated "Confidential" or "Highly Confidential" in a submission filed with the Court must move pursuant to Local Rule 5.3 for leave to file the submission under seal (id. ¶ 11).

In support of its Motion to Compel the Production of Documents by Telefonaktiebolaget LM Ericsson and Ericsson, Inc., QUALCOMM relies upon documents and discovery responses it has received from Broadcom under the terms on the Protective Order and that Broadcom has designated pursuant to the terms of the Protective Order. These documents are:

- a) A document produced by Broadcom entitled "PROJECT STOCKHOLM – 27 October – 10am" and designated by Broadcom as "Confidential", bearing production number BCMBLA0868475 (Gonell Ex. 4);
- b) An email produced by Broadcom from Gail Chandler of Texas Instruments to, among others, Peter Olofsson of Ericsson and Bill Blanning of Broadcom and designated by Broadcom as "Confidential", bearing production numbers BCMBLA0467013-014 (Gonell Ex. 5); and
- c) Excerpts of Broadcom Corporation's Objections and Responses to QUALCOMM Incorporated's First Set of Interrogatories, dated February 14, 2006, and designated by Broadcom as "Highly Confidential" (Gonell Ex. 10).

The Protective Order provides that a party may designate “Material” as “Confidential” if the party “in good faith believes that such Material is confidential to the Designating Party’s business”. (Prot. Ord. ¶ 3.) The Protective Order also provides that a party may designate “Material” as “Highly Confidential” if the party “in good faith believes that such Material contains highly confidential information that is so commercially sensitive or confidential that disclosure to persons other than those authorized poses a substantial risk of impairing the business interests of the Designating Party or a nonparty”. (Id. ¶ 10.) The Protective Order further provides that “[a]s to any Material designated as ‘Confidential’ or ‘Highly Confidential’, the Designating Party shall hereby be deemed to have certified that it believes in good faith that good cause exists, within the meaning of Rule 26(c) of the Federal Rules of Civil Procedure, for the Court to grant a protective order covering such Material. (Id. ¶ 26.) Accordingly, although the documents at issue are Broadcom’s documents and not QUALCOMM’s, QUALCOMM understands Broadcom to have certified that disclosure of the documents at issue would cause harm to Broadcom’s business interests.

QUALCOMM does not believe that there is a less restrictive alternative to the relief sought. QUALCOMM does not seek to file the entirety of its submissions under seal. Rather, QUALCOMM seeks to file only those documents that Broadcom has designated as “Confidential” or “Highly Confidential” under seal.

For all these reasons, QUALCOMM respectfully requests that the Court grant its motion to file materials under seal pursuant to Local Rule 5.3.

Respectfully submitted,

May 26, 2006

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UNITED STATES DISTRICT COURT
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Defendant.

Civil Action No. 05-3350 (MLC)

ORDER TO SEAL MATERIALS

THIS MATTER having been opened to the Court by McCarter & English, LLP,
attorneys for defendant QUALCOMM Incorporated, upon QUALCOMM's application for the
entry of an Order, pursuant to Local Civil Rule 5.3(c), providing for filing under seal of materials
related to QUALCOMM's Motion to Compel the Production of Documents by

Telefonaktiebolaget LM Ericsson and Ericsson, Inc. and the Court having considered the papers submitted in support of this Motion and the arguments of counsel, the Court hereby finds:

1. Through discovery in this case, the parties have produced confidential information, the public disclosure of which could affect legitimate business interests. To protect the confidentiality of this information, the parties entered into an Order Governing the Production and Exchange of Confidential Material, which this Court entered on March 13, 2006 (the "Protective Order").

2. The Protective Order allows the parties to designate information as "Confidential" (Order ¶ 3) or "Highly Confidential (id. ¶ 4), and provides that a party wishing to use material designated "Confidential" or "Highly Confidential" in a submission filed with the Court must move pursuant to Local Rule 5.3 for leave to file the submission under seal (id. ¶ 11).

3. QUALCOMM has filed under seal, in accordance with the provisions of Local Rule 5.3, the following documents related to QUALCOMM's Motion to Compel the Production of Documents by Telefonaktiebolaget LM Ericsson and Ericsson, Inc.:

- a) A document produced by Broadcom entitled "PROJECT STOCKHOLM – 27 October – 10am" and designated by Broadcom as "Confidential", bearing production number BCMBLA0868475 (Gonell Ex. 4);
- b) An email produced by Broadcom from Gail Chandler of Texas Instruments to, among others, Peter Olofsson of Ericsson and Bill Blanning of Broadcom and designated by Broadcom as "Confidential", bearing production numbers BCMBLA0467013-014 (Gonell Ex. 5); and
- c) Excerpts of Broadcom Corporation's Objections and Responses to QUALCOMM Incorporated's First Set of Interrogatories, dated February 14, 2006, and designated by Broadcom as "Highly Confidential" (Gonell Ex. 10).

Collectively, these documents are referred to herein as the "Confidential Materials."

4. The Confidential Materials contain information that has been designated "Confidential" or "Highly Confidential" by Broadcom in accordance with the Protective Order.

5. QUALCOMM has complied with the terms of the Protective Order by moving to file the Confidential Materials under seal pursuant to L.Civ.R. 5.3(c).

6. The information in the Confidential Materials satisfies the standards set forth in L.Civ.R. 5.3. The public release of these materials, which include confidential and proprietary customer, financial and business information would greatly harm the parties' competitive and business interests. There is no less restrictive alternative to the filing of these materials under seal.

THEREFORE, it is this _____ day of _____ 2006

ORDERED that Motion to Seal Materials Pursuant to Local Rule 5.3 is hereby granted;
and

IT IS FURTHER ORDERED that the Clerk is hereby directed to seal the Confidential Materials.

Honorable John J. Hughes
United States Magistrate Judge

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CERTIFICATION OF SERVICE

Richard Hernandez, of full age, certifies as follows:

1. I am an attorney at law of the State of New Jersey and am associated with the firm of McCarter & English, LLP, attorneys for defendant Qualcomm Incorporated.
2. On May 26, 2006, I caused the original of the following to be electronically filed with the United States District Court of New Jersey Clerk's Office:

- (a) Notice of Motion;
- (b) Memorandum in Support of Motion to Compel the Production of Documents by Telefonaktiebolaget LM Ericsson and Ericsson, Inc.;
- (c) Declaration of Fabian D. Gonnell; and
- (d) Proposed form of Order;
- (e) Notice of Motion to Seal Materials Pursuant to Local Rule 5.3;
- (f) Brief in support of Motion to Seal Materials Pursuant to Local Rule 5.3;

and

- (g) Proposed form of Order.

3. I further certify that, on this day, I caused copies of the foregoing documents to be served upon counsel of record, as follows:

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I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

s/ Richard Hernandez

DATED: May 26, 2006